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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,975	12/11/2000	Thomas Moran	476-1962	4647

23644 7590 04/04/2005

BARNES & THORNBURG  
P.O. BOX 2786  
CHICAGO, IL 60690-2786

EXAMINER
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PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/734,975

Applicant(s)

MORAN, THOMAS

Examiner

Ashok B. Patel

Art Unit

2154

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12/23/2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-19.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



JOHN FOLLANSBEE  
SUPERVISORY P  
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Continuation sheet:

Applicant's argument:

The present invention teaches a mechanism whereby an originating user can cause a pre-specified message to be sent to a specified user's destination mailbox without having to make a normal call to the owner of that mailbox. This reduces the repetitive tasks associated with using voice mail and other media types of mail of having to compose a message each time an originating user wishes to leave a message for a destination user at the destination use/s mailbox. One other advantage of the present invention is that, by enabling an originating user to initiate the delivery of a pre-specified message (even with a further message appended thereto) to be sent to a destination user's mailbox without having to make a normal call to the destination user, the originating user need not risk becoming engaged in a real-time interaction (e.g. voice call) with the destination user at a time that may not be convenient, for example.

It should be noted that a mailbox is, in essence, a device for the non-real time delivery of messages. In using a mailbox messaging service, an originating user is intentionally seeking to leave a message to be picked up, received, delivered etc to a destination user at some later point in time. This is particularly true of the present invention in which an originating user makes a conscious decision to initiate the sending of a pre-specified message rather than making a normal call to the destination user who, if then unavailable, may have arranged for normal calls to be directed to his/her mailbox.

The focus of Matsumoto is completely different from that of the present invention. It is solving the problem of trying to enable real time communication between a chat system and other media type devices.

Examiner's response:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a pre-specified message to be sent to a specified user's destination mailbox without having to make a normal call to the owner of that mailbox, and non-real time communication) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The reference teaches "A message is received by messaging device 1 from access device 2, which is a telephone set for example, and is stored in message database 3 as is without further processing. In addition to the message, messaging device 1 also receives a message destination designation from access device 2. Messaging device 1 reports a storing location for the message on an IRC, a URL for example, by sending a text message to the message destination. The IRC client notifies the user of the text message in real time. A user who views the text message makes a request to provider device 4 to provide the message using acquisition device 8. Provider device 4 accesses the message database, reads the message, and sends it to the acquisition device 8. Thereby, the message sent from access device 2 is reported as is to another user. (Abstract), the reference clearly discloses that the message is stored for user's retrieval and as such it discloses the users (destination party) have the mailboxes.